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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,201	05/29/2001	Charles Young	30454-1001	7863

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EXAMINER

WALLACE, SCOTT A

ART UNIT	PAPER NUMBER
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2671

DATE MAILED: 01/15/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/870,201

Applicant(s)

YOUNG, CHARLES

Examiner

Scott Wallace

Art Unit

2671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-16 is/are rejected.
- 7) ☒ Claim(s) 7 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 6, 11-12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shatto et al., U.S. Patent No. 6,011,578 in view of Bertram et al., U.S. Patent No. 6,088,030.

3. As per claims 1 and 11, Shatto et al discloses an automated method of collecting and displaying audience recognition information (abstract and column 2 lines 18-20) concerning a video presentation (Shatto does it for motion pictures, but it is well known to collect information regarding many different media including video), the method comprising the steps of: displaying a video presentation to a plurality of subjects (column 1 lines 10-15); inquiring of each of the subjects by computer (abstract, keypad connected to computer) means whether each of a plurality of still images from the video presentation are recognized by each of the subjects (column 1 lines 10-22); for each of the images, tabulating a percentage of the subjects reporting recognition of the image in the inquiring step (column 1 lines 58-61, it was well known to look at market research data as percentages, because this allowed someone to quickly get an idea by the percentage numbers how a group of subjects viewed something). However, Shatto et al does not disclose automatically generating by computer a graph comprising each of the images, wherein a position of each of the images on the graph is determined by the corresponding percentage generated in the tabulating step. This is disclosed in Bertram et al in the abstract and fig 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to graph the information of Shatto like Bertram because it is easier to look at graphs to quickly gather information about something and annotating the graphs with images make it easier to tell where on the graph the images is associated.

4. As per claims 2 and 12, wherein the displaying and inquiring steps are performed on a computer local to each subject, wherein the tabulating and generating steps are performed on a central computer networked to each local computer. It would have been obvious to have the computation done on a central computer, because this would eliminate the need for a big computer for the subjects, just something to enter the response, this would make it easier to have something smaller for like a theatre crowd.

5. As per claims 4, 6, 14 and 16, Shatto discloses an automated method of collecting and displaying audience recognition information (abstract and column 2 lines 18-20) concerning a video (Shatto does it for motion pictures, but it is well known to collect information regarding many different media including video) or graphic presentation, the method comprising the steps of: displaying a video or graphic presentation to a plurality of subjects (column 1 lines 10-15); obtaining by means local to each subject audience recognition information concerning the presentation from each of the subjects (abstract); communicating results of the obtaining step via network means to a central computer (fig 1); tabulating results of the obtaining step for all subjects (column 1 lines 58-61, it was well known to look at market research data as percentages, because this allowed someone to quickly get an idea by the percentage numbers how a group of subjects viewed something). However, Shatto et al does not disclose generating by computer means a graph or grid comprising at least one image from the presentation, wherein characteristics of the at least one image are determined by results of the tabulating step. This is disclosed in Bertram et al in the abstract and fig 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to graph the information of Shatto like Bertram because it is easier to look at graphs to quickly gather information about something and annotating the graphs with images make it easier to tell where on the graph the images is associated.

6. Claims 3, 5, 13, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shatto et al in view of Bertram et al in further in view of Kohen, U.S. Patent No. 6,604,239.

7. As per claims 3 and 13, Shatto and Bertram do not disclose additionally comprising the step of communicating results of the inquiring step to the central computer over the internet. This is disclosed in Kohen in the abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the internet because the web was well known at this time to get responses from users so web sites could know how many people visited them.

8. As per claims 5 and 15, Shatto and Bertram do not disclose wherein the displaying and obtaining step are performed by means selected from the group consisting of world wide web browsers and interactive television devices. This is disclosed in Kohen in the abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the internet because the web was well known at this time to get responses from users so web sites could know how many people visited them.

***Allowable Subject Matter***

9. Claims 7 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 8-10 and 18-20 are allowed.

11. The following is a statement of reasons for the indication of allowable subject matter: Prior art of reference fails to disclose after the generating step, creating an abbreviated presentation containing a subset of the images and displaying to a second plurality of subjects.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Scott Wallace** whose telephone number is **703-605-5163**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Mark Zimmerman**, can be reached at 703-305-9798.

**Application/Control Number: 09/870,201**  
**Art Unit: 2671**

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**Any response to this action should be mailed to:**

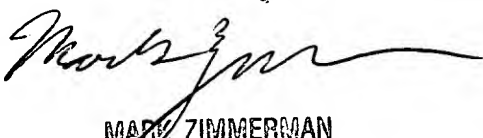
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**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA,  
Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be  
directed to the Technology Center 2600 Customer Service Office whose telephone number is  
(703) 306-0377.

  
MARK ZIMMERMAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600